

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

IN RE:

INTEREST RATE IN  
CHAPTER 13 CASES

**OPERATING ORDER**

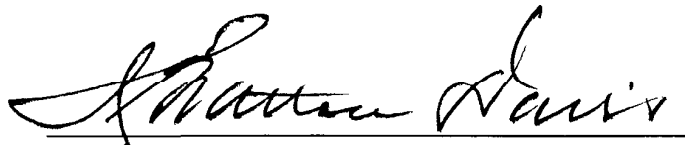
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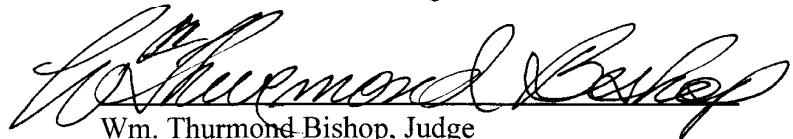
Based upon the recommendation of the Committee appointed by this Court to recommend the interest rate applied in Chapter 13 cases, the periodic interest rate ("Periodic Interest Rate") applied on secured claims in Chapter 13 cases will be 8.25%, effective in cases filed on, or after, January 1, 1998.

A Chapter 13 plan which proposes to pay the Periodic Interest Rate on a secured claim (including, but not limited to, real estate mortgage arrearages, automobile loans, mobile home arrearages, and personal property loans) is presumed to be paying the present value of that claim as required by 11 U.S.C. §1325(a)(5)(B)(ii). A party in interest which has timely objected to a proposed interest rate may rebut the presumption of reasonableness of the Periodic Interest Rate by presenting, at the confirmation hearing, credible evidence of the following: the contractual rate of interest; the current market rate of interest for similar loans in this area; the interest rate charge, in dollars, at the current market rate on the total amount still owed on the debt; the total amount of the debt as of the date of bankruptcy; the number of contractual payments remaining due on the debt as of the date of bankruptcy; the value of the collateral securing the debt; the hypothetical costs, in dollars, of liquidating the collateral if the collateral had been surrendered; and the hypothetical costs, in dollars, of making a new loan. See UCR v. Hall, 993 F.2d 1126 (4th Cir. 1997).

If such evidence is not presented, or if the debtor, the creditor, and the trustee have not agreed to a consensual interest rate, then a proposed interest rate equal to the periodic interest rate will be deemed to be reasonable so as to satisfy the present value requirement of 11 U.S.C. §1325(a)(5)(B)(ii). Therefore,

IT IS ORDERED that the Periodic Interest Rate applied on secured claims in Chapter 13 cases filed on, or after, January 1, 1998 shall be presumed to be reasonable at 8.25%; subject to rebuttal in individual cases in accordance with the terms of this order.

  
J. Bratton Davis, Chief Judge

  
Wm. Thurmond Bishop, Judge

  
John E. Waites, Judge

Columbia, South Carolina  
December 19, 1997.